HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.26819 of 2007

Date: December 17, 2007

Between:

1. The Depot Manager,
   APSRTC, Zaheerabad Depot,
   Medak District and another. … Petitioner.

And

1. N. Laxmaiah and another. … Respondents

* * *

ORDER:

This writ petition is filed for a writ of *Certiorari* to quash Award dated 11.10.2004 made in I.D.No.46 of 2003 on the file of Labour Court-II, Hyderabad, and published in G.O.Rt.No.2343 on 06.01.2005.

2. Respondent No.1 was appointed as temporary conductor on 01.7.1985 and his services were evidently regularized thereafter. When he was conducting bus No.AP 9Z 8651 on 09.02.2002, a check was made at stage No.28 at 1-45 p.m. on route Nizamabad to Zaheerabad. In connection therewith the following two charges were framed against respondent No.1.

(1) For having collected the fare of Rs.103/- (Rs.51.50 each) from two lady passengers who boarded your bus at Bodhan and bound for NSF Kothur Ex.stages 35 to 03 and issued tickets worth of Rs.43.00 in the combination of tickets baring No.072/213465 to 466 of Rs.11.50 (E2) and 111/639646 to 647 of Rs.10.00 den. (E2) which constitutes misconduct as per the regulation 28 (vi-a) of APSRTC Employees (Conduct) Regulations 1963.

(2) For having closed the ticket numbers of all

denominations in the SR at stage No.BANSWADA Ex.stages 28 without completing the ticket issues which constitutes misconduct under Reg.28 (xxxii) of APSRTC Employees (Conduct) Regulations 1963.

In the departmental enquiry held against respondent No.1, he was held guilty of both the charges levelled against him. Following show cause notice dated 28.9.2002 and considering his explanation, respondent No.1 was removed from service by petitioner No.1 by order dated 18.10.2002. The appeal filed by respondent No.1 before respondent No.2 was dismissed on 24.02.2003. Respondent No.1 thereafter moved industrial dispute vide I.D.No.46 of 2003 before respondent No.2. By the Award impugned in this writ petition, respondent No.2 modified the order dated 18.10.2002 and directed reinstatement of respondent No.1 without back wages, but with continuity of service including notional increments. It was further directed that after reinstatement, the petitioners herein were directed to defer three annual increments of respondent No.1 with cumulative effect for the proven misconduct.

3. Heard Sri V. Padmanabha Rao, learned counsel representing Smt. B.G. Umadevi, learned Standing Counsel for the petitioners.

4. At the outset, it is required to be noticed that the impugned Award was made on 11.10.2004 and published on 06.01.2005. This writ petition is filed more than three years after the publication of the Award. Though the constitution of India does not prescribe limitation for filing writ petitions, the constitutional courts evolved the doctrine of laches with the object of rejecting stale claims and entertaining petitions filed by persons who are not diligent in approaching the court within the reasonable time. Unless the court is satisfied that the petitioner had sufficient reason for not approaching the court at an earlier point of time, the petitions filed with considerable time lag after

arising of cause of action are dismissed as suffering from laches.

5. Since the petitioners have not offered any explanation, whatsoever, for approaching this court more than three years after passing of the Award by respondent No.2, I am of the view that the writ petition suffers from laches and is liable to be dismissed on this ground alone.

6. Even otherwise, I have perused the Award and I am satisfied that the same does not call for any interference. The Labour Court having confirmed the findings on the guilt of respondent No.1 gave cogent reasons in coming to the conclusion that the punishment of removal of respondent No.1 from service, who had 17 years unblemished record of service prior to the alleged incident, is disproportionate to the gravity of the charges held proved against respondent No.1. Thus, respondent No.2 exercised the power of discretion vested in it under Section 11-A of the Industrial Dispute Act, 1947, and this Court exercising jurisdiction under Article 226 of Constitution of India would not ordinarily interfere with such a discretion exercised by respondent No.2.

7. For the aforementioned reasons, the writ petition is dismissed. No costs.

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(C.V. NAGARJUNA REDDY, J)

Date: December 17, 2007.
BSB